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MAYOR'S OFFICE OF COMMUNITY DEVELOPMENT:

The Allegation That the Housing Rights Committee Used Mayor's Office of Community Development Funds for Political Lobbying Cannot be Substantiated

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OFFICE OF THE CONTROLLER

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Edward Harrington
Controller

Monique Zmuda
Deputy Controller

November 4, 2002 Audit Number 02005

Roger Sanders, Acting Director
Mayor's Office of Community Development
25 Van Ness Avenue, Suite 700
San Francisco, CA 94102

Dear Mr. Sanders:

The Controller's Audits Division presents its report on the investigation of allegations that the Housing Rights Committee of San Francisco (committee) had used for political purposes some of the funds allocated to it by the Mayor's Office of Community Development (Community Development). The documents that we reviewed did not substantiate the allegation that the committee used grant funds to lobby for political causes. The committee is one of more than 300 projects within the Tides Center, a California nonprofit corporation. The Tides Center agreement with Community Development specifies that the center will not use grant funds for political lobbying. On the other hand, we did substantiate another allegation, which asserted that the committee deposited a donation that the committee had received to a bank account that belonged to Housing for All, a ballot measure committee.

Our investigation revealed that the committee did engage in grassroots lobbying activities related to propositions on the City and County of San Francisco's November 2000 and November 2002 ballots, but it did not use Community Development funds to do so. Under the federal Internal Revenue Code Section 501(h), the committee, through the Tides Center, may participate in such activities up to a specified dollar limit each year. However, the committee cannot use funds from its grant agreement with Community Development, which prohibits expenditures for lobbying purposes. Records show that the committee did not use any Community Development funds to pay for its lobbying activities.

Finally, our investigation disclosed that the committee's executive director erroneously deposited a $250 check into a bank account that funded Housing for All.

The Controller's Audits Division will be working with Community Development to follow up on the status of the recommendations made in this report.

Respectfully submitted,

Edward Harrington
Controller

SUMMARY

Highlights...

We found the following during our investigation of the Housing Rights Committee (committee), a project of the Tides Center:

- ☑ ***The committee did not use grant funds from the Mayor's Office of Community Development to fund grassroots lobbying expenditures.***
- ☑ ***The committee did engage in grassroots lobbying, but is allowed to do so.***
- ☑ ***The executive director of the committee erroneously deposited a check made out to the committee into a ballot measure committee's bank account.***

RESULTS IN BRIEF

Our investigation did not substantiate allegations made that the Housing Rights Committee of San Francisco (committee) used funds from the Mayor's Office of Community Development (Community Development) to pay for lobbying activities during recent elections. Community Development asked the Controller's Audits Division to investigate the allegations that the committee spent City funds for political purposes and that it diverted to a political campaign some donations it received.

The committee receives funding from Community Development to provide education, counseling, and advocacy for low income, senior, and disabled tenants in San Francisco. On its own, the committee has no status as an independent nonprofit organization. However, the committee is a project within the Tides Center, which is a California nonprofit corporation that administers more than 300 projects.

Our investigation revealed that the committee did engage in grassroots lobbying but that it did not use Community Development funds to pay for these activities. According to the federal Internal Revenue Service, *grassroots lobbying* refers to attempts to influence any segment of the public about legislative matters or referendums. The committee's lobbying efforts were allowable because the committee, through the Tides Center, met certain tax reporting requirements for nonprofit organizations and because the committee paid for the lobbying activities with unrestricted funds that came from sources unrelated to Community Development. By meeting provisions in Section 501(h) of the federal Internal Revenue Code, the Tides Center could spend up to $250,000 annually on grassroots lobbying.

The committee, under the grant agreement between the Tides Center and Community Development, is not allowed to use grant funds for political purposes. The committee complied with the agreement with Community Development by using funds from the agreement to pay for educational and counseling services for and outreach to low income, senior, and disabled tenants in San Francisco.

When the committee did incur expenses for lobbying, it correctly reported—through the Tides Center—some of these expenses. However, the Tides Center did not correctly identify in its general ledger all of the committee's lobbying expenses, and therefore did not report all of its lobbying expenses.

Finally, we substantiated the allegation that the committee deposited to a bank account for a ballot measure committee, Housing for All, a donation that the committee had received. The committee's executive director, who was a signatory on the bank account, did deposit erroneously a $250 check in August 2000, made out to the Housing Rights Committee, into a bank account that funded a ballot measure committee called Housing for All.

INTRODUCTION

ALLEGATIONS

During the months of June through August 2002, several San Francisco newspaper columns alleged that the Housing Rights Committee of San Francisco (committee) used money from the Mayor's Office of Community Development (Community Development) to lobby for Proposition H, an initiative that appeared on the November 2000 ballot, which sought to prevent the pass-through of capital improvements to tenants in San Francisco. The columns also alleged that the committee has used Community Development funds to lobby against a housing initiative that will appear on the November 2002 ballot. Another allegation focused on the possibility that the committee took advantage of its nonprofit status to launder political contributions by diverting donations it received to a political campaign committee.

Community Development asked the Office of the Controller to determine the validity of the allegations about the committee. We were to assess whether the committee used grant funds provided by Community Development for political lobbying. The grant agreement between the City and County of San Francisco (City) and the Tides Center, the nonprofit organization that administers the committee, prohibits the Tides Center—including the committee—from using grant funds for political lobbying.

BACKGROUND

The Housing Rights Committee of San Francisco is a project within the Tides Center, a California nonprofit corporation that provides nonprofit infrastructure for its sponsored projects by offering services in program management, finance, administration, and human resources. The committee itself has no status as an independent nonprofit organization. As administrator of 300 projects located in 40 states and 12 countries, the Tides Center has approximately 500 employees at the various projects.

The committee's mission is to empower tenants through education, counseling, and organization to obtain fundamental rights to habitable, affordable housing in San Francisco.

Through the Tides Center, Housing Rights Committee Receives Funds From Many Sources

The Housing Rights Committee receives funds from many sources, including federal and local governments, private foundations, and individuals. While Community Development provided $103,692 in grant funding during the period July 1, 2000, through June 30, 2002, the committee, through the Tides Center, also received $267,430 in grants and contributions from foundations and individuals.

Community Development provided funds to the committee so that the committee could help low income, senior, and disabled tenants avoid displacement from their homes; find housing and support services for very low-income renters and seniors; increase tenants' knowledge about tenant law, legal services, and supportive social services; and prevent conversion of federally subsidized buildings to market rentals. The committee was to achieve these goals by supplying counseling services, conducting outreach, and offering workshops to tenants.

The Tides Center Is Permitted to Make Limited Expenditures to Influence Legislation

As a California nonprofit corporation, the Tides Center, which administers the committee, is exempt from state and federal income taxes as long as it adheres to state and federal requirements, including federal tax laws. Although some nonprofit organizations may engage in certain lobbying activities, as long as they do not devote a "substantial part" of their activities to attempting to influence legislation, they must not use any federal funds for such purposes. Further, state and local governments, which also fund nonprofit organizations, may also prohibit the use of their funds for such purposes. Generally, nonprofit organizations use unrestricted funds, or money not identified for specific purposes, to conduct lobbying activities. Nonprofits receive these funds, which carry no restrictions on their use, from sources that are private or unrelated to the government. For example, the Tides Center receives funds from foundations and individuals, for the support of the committee.

The Internal Revenue Service describes one type of allowable lobbying by nonprofit organizations as *grassroots lobbying*, which is the attempt to influence any segment of the general public regarding legislative matters. However, nonprofit organizations

may not participate or intervene in any political campaign on behalf of any candidate for public office.

Nonprofit organizations like the Tides Center must report to the Internal Revenue Service the amount of money they use each year for lobbying. The Internal Revenue Code sets limits on how much money a nonprofit organization may spend on lobbying. If the amount exceeds certain limits, it may be subject to federal excise tax.

The Tides Center elected to make limited expenditures to influence legislation according to Section 501(h) of the Internal Revenue Code of 1976. In doing so, the Tides Center formally documented its intent to spend unrestricted funds on lobbying. Nonprofit organizations making this election must pay a 25 percent excise tax on lobbying expenditures that exceed a maximum amount determined each year by a sliding-scale calculation based on the nonprofit organization's amount of exempt expenditures. For example, the Tides Center's maximum nontaxable amount for grassroots lobbying was $250,000 annually for calendar years 1997 through 2000. If it had exceeded $250,000 of lobbying expenditures in any of those years, it would be required to pay tax of 25 percent of the amount greater than $250,000. In addition, if the organization exceeds the allowable maximum by 150 percent over a four-year averaging period, it may lose its tax-exempt status.

The Housing Rights Committee Engaged in Lobbying

Executive staff at the committee and at the Tides Center confirmed that the committee had engaged in lobbying during the two years we reviewed. According to these staff members, the committee participated in grassroots lobbying involving San Francisco's electorate and the public in an effort to pass Proposition H, an initiative that appeared on the November 2000 ballot and that was aimed at preventing property owners from passing through to tenants the costs of any capital improvements made to rental properties. The committee also lobbied in opposition of Proposition R, a housing initiative that will appear on the November 2002 ballot and that—if passed—will allow property owners increased opportunity to convert their rental properties to condominiums.

SCOPE AND METHODOLOGY

To conduct the investigation requested by the Mayor's Office of Community Development, we interviewed staff of the Housing Rights Committee, the Tides Center, and Community Development. We also reviewed the committee's financial records for fiscal years 2000-01 and 2001-02, which the Tides Center maintains. Further, we examined subsidiary records maintained by the committee at its office, and we analyzed check registers, bank statements, and records of contributions to the committee. To assess the committee's grassroots lobbying activities, we visited the committee's office and its web site, and reviewed its publications to identify instances in which the committee had participated in grassroots lobbying efforts.

Because it was outside the scope of our engagement, we did not review the grassroots lobbying activities of the many other programs within the Tides Center. Thus, we did not assess whether the total expenses for grassroots lobbying that the Tides Center reported are reasonable.

AUDIT RESULTS

THE HOUSING RIGHTS COMMITTEE DID NOT SPEND MAYOR'S OFFICE OF COMMUNITY DEVELOPMENT FUNDS TO CONDUCT LOBBYING ACTIVITIES

When the Housing Rights Committee of San Francisco (committee) engaged in lobbying, it did not use funds from the Mayor's Office of Community Development (Community Development) to pay for those activities. Furthermore, the committee's lobbying efforts were permissible because the committee is part of a nonprofit organization that agreed to meet certain reporting requirements on lobbying expenses for federal tax purposes.

The Housing Rights Committee engaged in grassroots lobbying activities, but did not use Community Development funds to do so.

When we reviewed the committee's financial records for fiscal years 2000-01 and 2001-02, we saw that the costs charged to its agreement with the Mayor's Office of Community Development were reasonable. In particular, the salaries for November 2000 and June 2002, which we examined in detail, had adequate support from source documents, including time logs, payroll journals and personnel records. Additionally, after reviewing copies of invoices charged to Community Development for each of the 24 months we reviewed, we concluded that the costs billed to Community Development were for budgeted expenses described in the committee's agreement with this agency.

Further, our visits to the committee's counseling center also revealed that the organization focuses its resources on helping individuals learn about and obtain their rights as tenants. In addition, we found that the brochures published for tenants by the committee and paid for in part by Community Development funds are intended to inform the public of tenants' rights.

THE HOUSING RIGHTS COMMITTEE AND THE TIDES CENTER DID NOT ADEQUATELY CLASSIFY AND REPORT SOME COSTS

Although the committee's records were complete enough for us to conclude that the committee did not use Community Development funds to pay for the committee's lobbying activities, we could not

determine the amounts that the committee, through the Tides Center, should have recorded and reported for its lobbying activities. Specifically, the committee did not require its staff to keep time logs to track the hours they spent on the various activities paid for by unrestricted funds, including lobbying activity. Therefore, the Tides Center staff did not know how many hours were spent on grassroots lobbying by staff located at the committee, and were unable to record in the committee's general ledger the correct amounts for salaries and benefits for lobbying. Generally, Tides Center staff estimated the number of hours that committee staff spent on grassroots lobbying and activities paid for by unrestricted funds based on percentages reported by the committee. The committee also incorrectly identified as other types of activities some operating expenses related to grassroots lobbying. For example, the committee reported $6,327 as unrestricted expense rather than as lobbying expense when it paid for expenses benefiting Housing for All, which was a ballot measure committee.

The Tides Center and the Housing Rights Committee did not always correctly record grassroots lobbying expenses.

Further, the committee charged to unrestricted expenses the cost to host the committee's web site for the month that we examined even though the site displayed political content.

THE HOUSING RIGHTS COMMITTEE DEPOSITED ONE OF ITS DONATIONS TO A BALLOT MEASURE COMMITTEE'S BANK ACCOUNT

The Housing Rights Committee helped fund Housing for All, a ballot measure committee. The committee paid for several expenses of Housing for All, such as petition signing, postage, and filing fees with the City and County of San Francisco's Registrar of Voters. Further, the executive director of the committee was a signatory on the Housing for All bank account, and made deposits to the account. According to the committee's executive director, she erroneously deposited a $250 check in August 2000, which was made out to the Housing Rights Committee, to the bank account for Housing for All. Because the committee's executive director did not discover the error until after the Housing for All bank account was depleted, neither the donor nor the committee received a reimbursement for the $250. In addition, the same donor who made the $250 contribution also made a $100 contribution in June 2000 to Housing for All. According to the committee's executive director, the donor told her that he intended to contribute to the committee but was confused by the committee's mailer,

which requested donations for both the Housing Rights Committee and Housing for All. The executive director sent the donor a $100 reimbursement check from the bank account for Housing for All in September 2001, before the bank account was depleted.

RECOMMENDATIONS

To ensure that the Tides Center records correctly the accounting information for the Housing Rights Committee, the Tides Center should take these steps:

- Require staff at the Housing Rights Committee to record on timesheets their hours worked for each of the committee's specific activities, including grassroots lobbying.

- Provide an annual budget for lobbying expense to each project and a detailed monthly accounting to project staff of actual lobbying costs compared to the budget. This will allow projects to verify the accounting records.

- Educate all staff members about the distinction between unrestricted expenses and grassroots lobbying expenses, and the importance of recording both types of expenses correctly.

- Prohibit requests for donations that combine solicitations for political causes with those for nonprofit efforts so those donors will not believe that they are contributing to a nonprofit organization when in fact they are contributing to a ballot measure committee.

We conducted this review according to generally accepted government auditing standards. We limited our review to those areas specified in the scope section of this report.

Staff: Carmen Le Franc, Audit Manager
Deborah Gordon
Lorita Chung

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TIDES CENTER
RESPONSE TO THE AUDIT:

TIDES

November 1, 2002

City and County of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place, Rm. 316
San Francisco, CA 94102-4694

Attn: Edward Harrington, Controller

In reference to The Tides Center's Annual Audit of our financial statements, we have no further comments.

Should you have any questions or concerns please, feel free to contact me at 415-561-6365.

Sincerely,

David Salniker, Executive Director
THE TIDES CENTER

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